REMARKS

This amendment and response is being filed in response to the Office Action mailed on April 3, 2003. A Petition for Revival and a Request for Continued Examination are being concurrently filed this paper with the appropriate fees. Applicant respectfully requests reconsideration and allowance of the pending claims in view of the amendments and arguments presented herein. Upon entry of the amendments, claims 21-38 and 52-60 will remain in the present application. Claims 1-20, 39-51, and 61-66 were previously canceled.

By the amendments presented, claims 21, 23-26, 28-37, 52, 54-60 have been amended. Claims 21 and 25 have been amended to recite that the network web site includes (i) a central host server that runs at least one application program for retrieving and transmitting a video product to the remote user, (ii) a central storage device, and (iii) and a database associated with the application program for the "persistent storage" of user related information. Support for these amendments are found throughout the specification and drawings, inter alia, at p. 6, lines 15-19, from p. 6, line 28 to p. 7, line 6, p. 9, lines 2-5 and 27-29, p. 10, lines 4-5, from p. 10, line 16 to p. 11, line 11, p. 11, lines 24-25, from p. 12, line 30 to p. 13, line 25, p. 14, lines 10-29, p. 15, lines 5-10, p. 19, lines 11-20, p. 20, lines 22-24, p. 21, lines 20-21, from p. 22, line 5 to p. 23, line 10 and Figures 2, 39, 42, 53, and 55.

Claims 23 and 24 have been amended to clearly reference the "central storage device" of claim 21.

Claims 26 and 34 have been amended to recite the at least one executable program in active positive steps. These claims have also been amended to positively recite a database associated with the executable program of instructions for persistent storage of data for the remote user. Support for these amendments are found throughout the specification and drawings, inter alia, at p. 6, lines 15-19, from p. 6, line 28 to p. 7, line 6, p. 9, lines 2-5 and 27-29, p. 10, lines 4-5, from p. 10, line 16 to p. 11, line 11, p. 11, lines 24-25, from p. 12, line 30 to p. 13, line 25, p. 14, lines 10-29, p. 15, lines 5-10, p. 19, lines 11-20, p. 20, lines 22-24, p. 21, lines 20-21, from p. 22, line 5 to p. 23, line 10 and Figures 2, 39, 42, 53, and 55.

Claims 28-33, 35-37, 55, 56, 58 and 59 have been amended to recite positive steps for the machine executable program of instructions. Support for these amendments can be found in the specification, inter alia, the citations in the previous paragraph.

Claims 52, 54, 55, 57 and 60 have been amended by changing "about 5 discrete rating selections" to "up to 5 discrete rating selections." Support for these amendments can be found in the specification and drawings, inter alia, p. 19, lines 11-24 and Figs. 4, 19, 20, 53and 54.

In view of sufficient support for all the above amendments, Applicant respectfully submits that no new matter has been added.

Section 112 Rejections

Claims 52, 54, 55, 57 and 60 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite. The Examiner alleges that it is unclear how many discrete rating selections the applicant is claiming by changing the claimed feature language from "between 3 and 8" to "about 5" discrete rating selections. The Examiner further alleges that applicant has only identified, in response to the previous rejection, the use of 2 and 5 discrete selections within the specification.

Applicant respectfully submits that this rejection is now moot in view of the amendments to claims 52, 54, 55, 57 and 60. Withdrawal of this rejection is respectfully requested.

Claims 26-38 and 55-60 have been rejected under 35 U.S.C. § 101 as allegedly failing to recite a useful invention. The Examiner alleges that these claims do not define a proper process claim, because they recite recitation of use without setting forth any steps involved in the process. Claims 26-38 and 55-60 have also been rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite, because they omit essential structural connections relating the elements. In particular, the Examiner points to the following as "omitted structural cooperative relations": "purchasing process" and "identification process."

Applicant respectfully submits that these rejections are now moot in view of the amendments to claims 26, 28 and 34, which positively recite steps for the "identification process" and the "purchasing process." Withdrawal of these Section 101 and Section 112 rejections are respectfully requested.

Section 103 Rejections

Claims 21, 23, 25-30, 32-34, 36-38, 53, 56 and 59 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Music Boulevard (i.e., the combination of Jensen2 (March 10, 2002 Order, Intouch Group, Inc. v. Amazon.com, Inc. et al., Civil Action No. C 00-1156

DLJ), Interactive Daily, USATODAY.com, Kramer, and Multimedia Week, as provided in form PTO-892) and further in view of Brickman (Communications Week, October 23, 1995). In regard to independent claims 21 and 26, the Examiner asserts (referencing Jensen2, page 25, lines 5-16) that Music Boulevard discloses the claimed method for enabling a remote user to preview a portion of a pre-recorded music product from a network web site. Although recognizing that Music Boulevard fails to teach or suggest video information, the Examiner asserts that it would have been obvious to include in Music Boulevard the transmission of video as taught by Brickman, because video is another form of digital content and sales of video over the internet was old and well known in the art, as allegedly disclosed in Kramer at p. 2, para. 7 (The Atlanta Journal-Constitution, "It's a world 'GIG': Fest includes jazz, alternative, hip-hop," July 15, 1996.). The Examiner further asserts (referencing Jensen 2, p. 21, line 15 to p. 24, line 28) that Music Boulevard disclosed storing data corresponding to the remote user's activities on the network web site to allow association of the remote user and the previously previewed products.

In regard to independent claims 26 and 34, the Examiner references the reasoning asserted for claims 21 and 25 and asserts that Music Boulevard discloses a computer system having the recited elements of claims 26 and 34. Specifically, the Examiner asserts that Music Boulevard discloses a machine executable program of instructions where data corresponding to the remote user's activities on the network web site is stored along with the user identification data in a manner that allows associated of previewed products with the remote user.

In regard to claims 29 and 30, the Examiner (referencing Jensen2 at page 8, lines 1-16) asserts that Music Boulevard teaches a machine executable program of instructions for providing the user with a dynamic list of pre-selected portions of different video products that have been previewed the most and a record of previous previews by the user. Similarly in regard to claims 32, 33, 36 and 37, the Examiner (referencing Jensen2, p. 21, line 15 to p. 24, line 25) asserts that Music Boulevard teaches a machine executable program that correlates the user rating with the user identification data.

Applicant respectfully traverses this rejection. Preliminarily, Applicant respectfully submits that Kramer merely teaches placing purchase requests for videos over the internet, not "delivery" of the digital content to the computer. Furthermore, as the Examiner acknowledges, Music Boulevard fails to teach or suggest the preview of video products.

As the Examiner recognizes by the citation to Jensen 2, p. 21, line 15 to p. 24, line 28, Music Boulevard utilized its Apache Web server log file and not the application server to keep track of the user's actions in 1995. (See, Jensen2, from p. 21, line 20 to p. 22, line 14; Appendix 1, Bowman Transcript, from p. 121, line 16 to p. 122, line 15 and from p. 230, line 11-17, p. 240, lines 4-14; Appendix 2, Magill Declaration at ¶ 17.) The importance of this distinction is that the Apache Web server log has a finite number of spaces, and as other users access the site each log entry is eventually deleted. In fact, Mr. Bowman testified that the application server did not record the user's activity until about 1997. (Appendix 1, p. 240, lines 15-21.) Furthermore, in the Music Boulevard system, a separate search must be done through the log files stored on the Apache Web server to identify each of the user's actions during the session by searching for the particular session ID. (Jensen2, p. 22, lines 1-5; Appendix 1, Bowman transcript at p. 255, lines 19-22.)

In contrast, independent method claims 21 and 25 have been amended to require (i) a network web site having a central host server running at least one application program that retrieves and transmits the sample video product requested by the remote user and (ii) a database associated with the application program for the persistent storage of user-related information. Furthermore, these claims require persistent storage of the user's activity of previewed sample video products. Similarly, independent computer system claims 26 and 34 have been amended to require a database associated with the machine executable program of instructions (that retrieves and transmits the sample video product requested by the remote user) for the persistent storage of the user's activity of previewed sample video products. Music Boulevard clearly fails to teach or suggest such persistent storage of the user's preview data or the association of a database with the application for retrieving and transmitting sample video products.

Brickman fails to account for the deficiencies in Music Boulevard. Brickman simply provides for a method of delivering content without requiring the subscriber to be logged on. (See Brickman, p. 1, paragraph 1.) It seems to disclose a "virtual FedEx" system for automatically connecting to the internet without requiring the consumer to be logged on. However, Brickman provides no teaching or suggestion for allowing the consumer to preview pre-selected portions of a plurality of different pre-recorded products. Rather, Brickman simply seems to be an automatic delivery system after the consumer has placed a purchase request. Accordingly, Brickman fails to provide any teaching or suggestion for persistent storage of the user's preview data or the

association of a database with the application for retrieving and transmitting sample video products. In view of these deficiencies, Applicant respectfully submits that claims 21, 23, 25-30, 32-34, 36-38, 53, 56 and 59 of the present application are not obvious over Music Boulevard alone or in combination with Brickman. Withdrawal of this rejection is respectfully requested.

Claim 24 has been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Music Boulevard (i.e., the combination of Jensen2, Interactive Daily, USATODAY.com, Kramer, and Multimedia Week, as provided in form PTO-892) in view of Brickman (Communications Week, October 23, 1995), and further in view of Koz (USPN 6,188,428). Specifically, the Examiner acknowledges that Music Boulevard does not teach a RAID array drive, but turns to Koz for teaching random access data storage systems that include a "Redundant Array of Inexpensive Disks" at col. 8, lines 54-58. The Examiner asserts that it would have been obvious to a skilled artisan to include in the combination of Music Boulevard and Brickman a RAID array drive as taught by Koz, because it would provide uninterrupted data.

Applicant respectfully traverses this rejection. Since claim 24 depends from claim 21, Applicant incorporates herein his arguments presented above in response to the rejection of claim 21. Furthermore, Koz is similarly deficient as Music Boulevard and Brickman, because there is no teaching or suggestion in Koz for persistent storage of the user's preview data or the association of a database with the application for retrieving and transmitting sample video products. Applicant, therefore, respectfully submits that claim 24 is not obvious over the combination of Music Boulevard, Brickman, and Koz.

Claims 22, 31, 35, 52, 55, 57, 58 and 60 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Music Boulevard (i.e., the combination of Jensen2, Interactive Daily, USATODAY.com, Kramer, and Multimedia Week, as provided in form PTO-892) in view of Brickman (Communications Week, October 23, 1995), and further in view of Miller (USPN 5,842,199). Specifically, the Examiner (referencing Jensen2, p. 24, lines 16-21) asserts that Music Boulevard teaches the collection of customer profile information which is used to determine preferences, but acknowledges that it does not teach rating a product. The Examiner turns to Miller's alleged teaching that single keystrokes entered by the user can be used as rating methods in collaborative filtering systems. The Examiner asserts that it would have been obvious to the skilled artisan to include in the combination of Music Boulevard and Brickman the rating

method as taught by Miller, because the ratings can provide value to a web site by providing visitors information that may reduce the time needed to make a purchase.

Applicant respectfully traverses this rejection. Since these rejected claims depend from independent claims 21, 25, 26 or 34, Applicant incorporates herein his arguments presented above in response to the rejection of these independent claims. Moreover, Applicant respectfully submits that the reference to Jensen2, p. 24, lines 16-21 only discusses demographic information. Music Boulevard, as well as Brickman, fails to provide any teaching or suggestion for rating the chosen sample video products, as recited in claims 22, 31, 35, 52, 55, 57, 58 and 60, or persistent storage of such rating data associated with the user. Miller similarly fails to teach or suggest the persistent storage of rating data associated with a particular user. In view of the failure of Music Boulevard, Brickman, and Miller to teach or suggest this requirement, Applicant respectfully submits that the Examiner is inappropriately using hindsight reconstruction to support this obviousness rejection. There simply is no teaching in any of these three references to persistently store rating data tied to a particular user.

Furthermore, Applicant respectfully submits that even if the skilled artisan were motivated to make this combination, the combination would still be deficient in this regard. Although Miller generally teaches rating methods in collaborative filtering systems, Miller teaches ratings for use in prediction techniques to predict items that may be valued by a user. In other words, Miller uses a pool of rating data that is not specific to any particular user to help identify items. The combination of Miller with Music Boulevard and Brickman, therefore, would still fail to teach or suggest persistent storage of previewed product data for the particular user. Withdrawal of this rejection is respectfully requested, because claims 22, 31, 35, 52, 55, 57, 58 and 60 are not unpatentable over Music Boulevard in view of Brickman and further in view of Miller.

Conclusion

In view of the amendments and remarks provided herein, it is respectfully submitted that the rejections of claims 21-38 and 52-60 have been overcome. Applicant respectfully requests reconsideration and allowance of these claims. If there are any additional charges, please charge them to our Deposit Account Number 04-0822.

Respectfully submitted,
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Appendices 1 and 2.

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